RESEARCH HIGHLIGHT

June 2014

Socio-economic Series 14-002

Accessory Apartment Regulations in Canadian Census Metropolitan Areas and Census Agglomerations

INTRODUCTION

Accessory apartments are an important part of the Canadian housing stock, especially in urban areas. They can be found in most Canadian municipalities and are usually regulated by municipal zoning bylaws; however, they can also be regulated by rural plans, subdivision and development regulations as well as provincial regulations. There are a number of benefits to accessory apartments including an increase in affordable rental housing stock and a potential increase in independent accommodation options for seniors, students and people with disabilities. Income from an accessory apartment can also help to offset the cost of a mortgage on the primary dwelling. This form of housing also comes with a number of challenges such as establishing and enforcing the regulatory environment, including fire and building code compliance, municipal infrastructure capacity and parking issues, especially in urban areas.

Objective

This study is an update and expansion of the "Accessory Apartment Regulations in Census Metropolitan Areas in Canada" study, which was completed in 2006. The aim is to identify and analyze the current regulatory environment in Canadian municipalities as it pertains to accessory apartments. The 2006 study focused on the municipalities and their regulatory environment in 27 existing and 6 proposed census metropolitan areas (CMAs), whereas the 2014 study includes not only the 33 existing CMAs but also the 114 census agglomerations (CAs).

Terminology

According to Statistics Canada, census metropolitan areas and census agglomerations consist of one or more neighbouring municipalities situated around a *core municipality*. A census metropolitan area must have a population of at least 100,000, of which 50,000 or more must live in the *core municipality*. A census agglomeration must have a core population of at least 10,000.

For the purposes of this study, the term "accessory apartment" will be used when referring to a self-contained dwelling that is accessory in use to the principal dwelling and located either within the primary dwelling or in an accessory building on the same lot as the primary dwelling.

Accessory apartments appear under many different names in the surveyed regulations. There are 50 distinct names used in English (compared to 26 in 2006) and 27 in French (as opposed to 24 in 2006). There appears to be two name categories:

- names that refer to a dwelling in relation to its location, such as in a type of building, for example, garden suite, garage suite, second house, coach house and accessory building (in French bylaws, *pavillon jardin* and *pavillon secondaire*), or within a given building, for example, basement suite and apartment in house (in French bylaws, *logement supplémentaire ou additionnel, logement accessoire* and *logement au sous-sol*); and
- names that refer to a dwelling in relation to the occupant, for example, granny suite, in-law suite, family care suite and nanny suite (in French bylaws, *logement intergénérationnel, habitation bi-génération, logement parental, espace adapté* and *intergénérationnel*).

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The most prevalent names identified for accessory apartments in English bylaws are secondary suite or dwelling; accessory apartment, unit, suite or dwelling; garden suite or apartment; two-unit suite; and auxiliary dwelling. In French, the most prevalent names are *logement supplémentaire ou additionnel, logement d'appoint, logement accessoire, logement complémentaire* and *logement intergénérationnel.*

Methodology

Based on 2011 Census data from Statistics Canada, 678 municipalities were identified in 33 census metropolitan areas and 114 census agglomerations. All census subdivisions that were not municipalities, such as summer villages, electoral districts, local improvement districts, Indian reserves, etc., were excluded from this study.

The study provides information as of March 10, 2014, for 650 out of the 678 municipalities identified, of which 373 are in CMAs and 277 are in CAs (see table 1). Information was obtained online in 71% of the cases reported; information for the remaining 29% of municipalities was obtained by e-mail or telephone or a combination of both.

The following information was collected:

- the regulation title;
- the definition of the term used for accessory apartment where available; and
- the applicable provisions, including whether accessory apartments are permitted, and under what conditions.

Not all of the regulations examined were zoning or land use bylaws. In some instances, provisions governing accessory apartments were obtained from official plans, rural plans, municipal policies, development regulations or other regulatory bylaws.

In instances where accessory apartments (under any of the many terms identified) were not mentioned in the zoning bylaw, they were considered "not permitted," based on confirmation from municipal officials.

The number of bylaws that were collected is greater than the number of municipalities. This is due mainly to amalgamations, notably in Quebec, and also in Ontario and Nova Scotia (Halifax Regional Municipality). In some instances, multiple zoning bylaws are still in place. In these cases, all the zoning regulations of the former municipalities—or in Quebec's case, boroughs—were collected and included as well. In addition, New Brunswick has municipalities composed of several parishes that have their own bylaws. For the purposes of this study, where multiple zoning bylaws were in place, a municipality was considered to allow (or not allow) accessory apartments based on what was permitted in a majority of the bylaws for that particular municipality.

Table 1 Response rate from CMA and CA municipalities, 2014

	Number of Municipalities	Share
33 census metropolitan areas (CMAs)		
Total number surveyed	**388**	
Responses	373	96%
No response	15	4%
114 census agglomerations (CAs)		
Total number surveyed	**290**	
Responses	277	96%
No response	13	4%
Total number surveyed CMAs + CAs	**678**	
Total responses CMAs + CAs	650	96%
Total no response CMAs + CAs	28	4%

Findings

Of the 650 municipalities in CMAs and CAs for which information was obtained, 77% allow accessory apartments and 23% do not (see table 2).

Census metropolitan areas

Of the 373 CMA municipalities for which data was obtained, 292 (78%) allow accessory apartments and 81 (22%) do not (see figure 1). Of the 292 municipalities that allow accessory apartments, based on population data from the 2011 Census:

- 31% are rural,
- 39% are small,
- 15% are medium, and
- 15% are large.

(See figure 2.)

Table 2 Municipalities allowing accessory apartments by CMA, CA and population of municipality, 2014

Responses according to municipal zoning provisions	Number of Municipalities	Share	Population			
			Rural <5,000	Small 5,000–29,999	Medium 30,000–99,999	Large 100,000+
Census Metropolitan Areas (CMAs)						
Municipalities allowing accessory apartments	**292**	78%	90	114	45	43
Municipalities where accessory apartments are not allowed or where there are no provisions for accessory apartments	81	22%	40	29	7	5
CMA Total	**373**		**130**	**143**	**52**	**48**
Census Agglomerations (CAs)						
Municipalities allowing accessory apartments	209	75%	89	83	37	0
Municipalities where accessory apartments are not allowed or where there are no provisions for accessory apartments	68	25%	46	13	8	1
CA Total	**277**		**135**	**96**	**45**	**1**
Total Responses CMAs + CAs						
Municipalities allowing accessory apartments	501	77%	179	197	82	43
Municipalities where accessory apartments are not allowed or where there are no provisions for accessory apartments	149	23%	86	42	15	6
CMA + CA Total	**650**		**265**	**239**	**97**	**49**

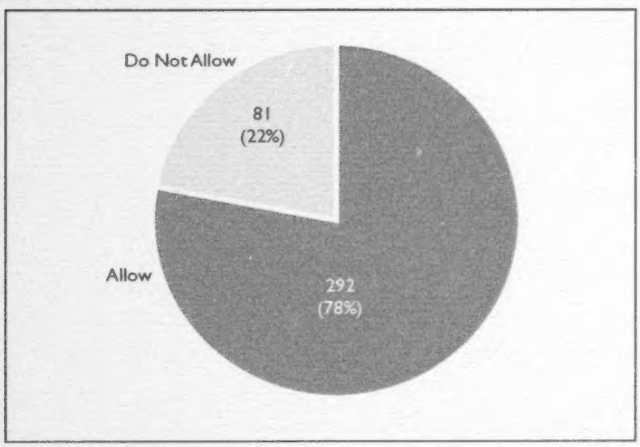

Figure 1 Number and percentage of CMA municipalities that allow/do not allow accessory apartments, March 10, 2014

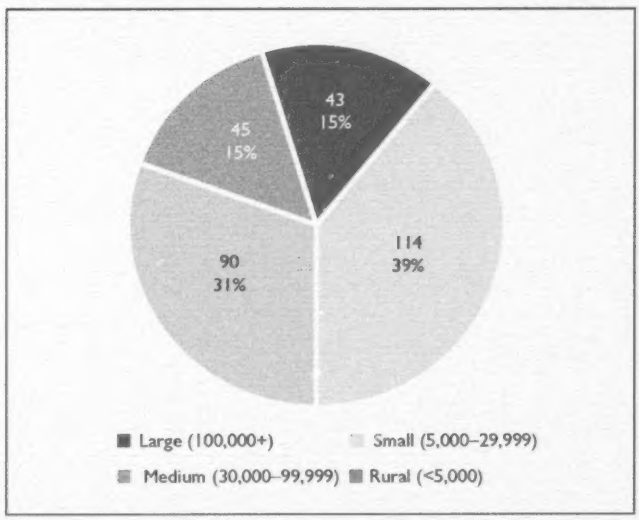

Figure 2 Number and percentage of CMA municipalities that allow accessory apartments, by population, March 10, 2014

Of the 81 municipalities that do not permit accessory apartments:

- 49% are rural,
- 36% are small,
- 9% are medium, and
- 6% are large.

(See figure 3.)

Of the 33 CMA core municipalities, 25 (75%) permit accessory apartments, while 8 (25%) do not. The city of Gatineau is part of the Ottawa CMA and therefore excluded from being counted separately for this purpose.

Based on the methodology used to determine whether a municipality allows accessory apartments, the examination of current regulations shows that the following cities do not allow accessory apartments in the majority of their bylaws: St. John's, Oshawa, Windsor, Saguenay, Montréal, Québec, Sherbrooke and Trois-Rivières.

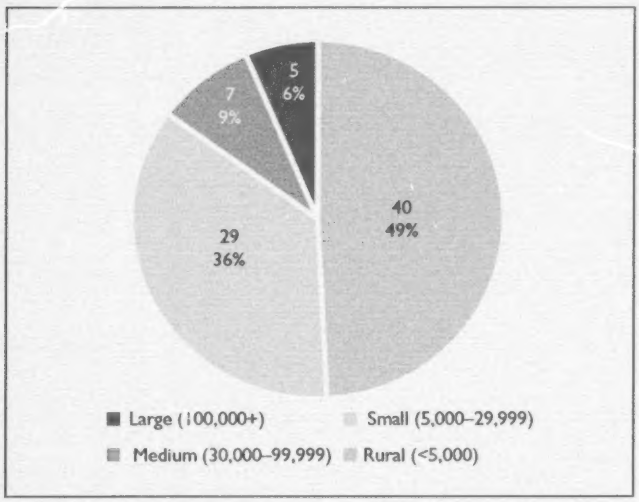

Figure 3 Number and percentage of CMA municipalities that do not allow accessory apartments, by population, March 10, 2014

Census agglomerations

For the 277 municipalities in CAs, 209 (75%) allow accessory apartments and 68 (25%) do not (see figure 4). Of the 209 municipalities that permit accessory apartments, based on population data from the 2011 Census:

- 42% are rural,
- 40% are small, and
- 18% are medium.

(See figure 5.)

Of the 68 municipalities that do not permit accessory apartments:

- 68% are rural,
- 19% are small,
- 12% are medium, and
- 1% are large.

(See figure 6.)

Of the 114 CA core municipalities, 96 (84%) permit accessory apartments, while 18 (16%) do not.

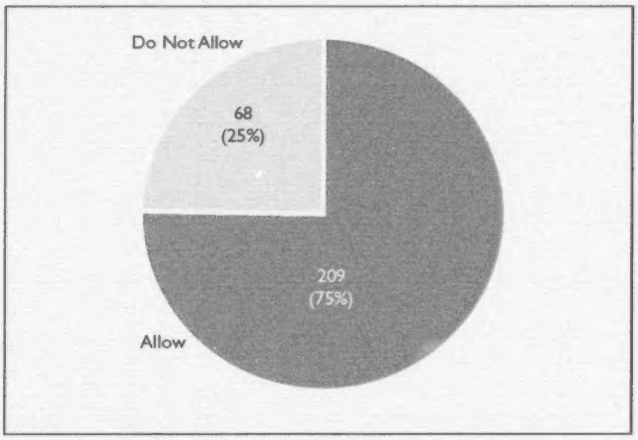

Figure 4 Number and percentage of CA municipalities that allow/do not allow accessory apartments, March 10, 2014

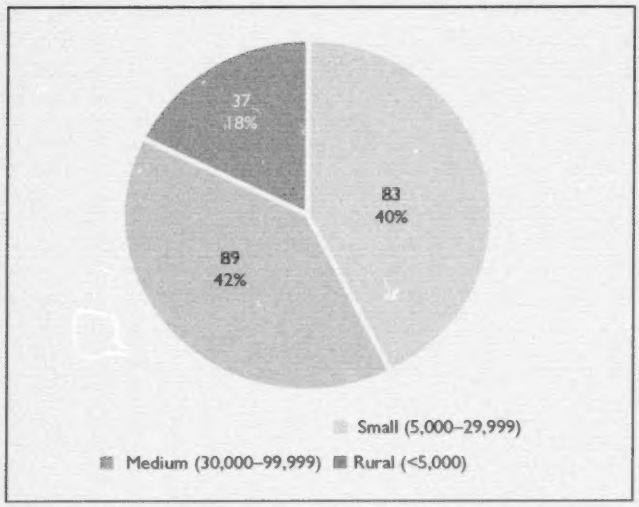

Figure 5 Number and percentage of CA municipalities that allow accessory apartments, by population, March 10, 2014

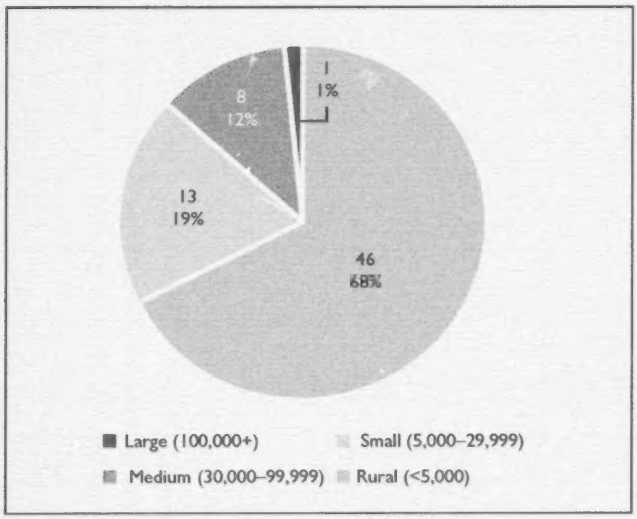

Figure 6 Number and percentage of CA municipalities that do not allow accessory apartments, by population, March 10, 2014

CMA comparison between 2006 and 2014

The percentage of municipalities in CMAs that permit accessory suites increased from only 54% (220 of the 404 municipalities) in 2006 to 78% (292 of 373 municipalities) in 2014. Despite sampling differences discussed below, it is evident that there has been an increase of approximately 24% of municipalities in CMAs that now permit accessory apartments (see table 3). The number of CMA core municipalities permitting accessory apartments also increased. Of the 33 CMA core municipalities, 19 permitted accessory apartments in 2006, while 25 permitted them in 2014.

In 2006, of the 220 municipalities in CMAs where accessory apartments were allowed, there were a total of 240 bylaws or regulations. In 2014, of the 292 municipalities in CMAs where accessory apartments are allowed, there are a total of 331 bylaws or regulations.

Sampling differences

The core municipalities in each CMA remained the same in both the 2006 and 2014 studies. However, there is a sampling difference between the 2006 and the 2014 studies due to amalgamations and de-amalgamations that occurred since 2006, most notably in Quebec and Ontario, which resulted in the addition of 56 municipalities that were not included in the 2006 study.

In 2006, 264 of the 404 responding municipalities were urban municipalities (65.3%) and 140 were rural municipalities (34.7%). Based on Statistics Canada definitions of urban and rural populations and on 2001 Census data, a municipality was considered urban for the purposes of the study if the urban population represented over 50% of the total municipal population. Because of changes made by Statistics Canada to urban and rural definitions since the 2006 study, direct comparisons of urban and rural data from 2006 and 2014 cannot be made.

Table 3 CMA comparison between 2006 and 2014

Census Metropolitan Area		Number of Municipalities Where Accessory Apartments Are:			
		Permitted		Not Permitted	
		2006[1]	2014	2006[1]	2014
British Columbia	Abbotsford	2	2	0	0
	Kelowna	2	4	1	0
	Vancouver	17	21	4	0
	Victoria	8	11	4	2
Alberta	Calgary	2	8	6	0
	Edmonton	12	21	8	2
Saskatchewan	Regina	6	12	8	5
	Saskatoon	6	13	10	10
Manitoba	Winnipeg	4	6	5	5
Ontario	Barrie	3	3	0	0
	Brantford	1	2	0	0
	Guelph	2	3	0	0
	Greater Sudbury	1	1	0	0
	Hamilton	1	3	2	0
	Kingston	1	4	3	0
	Kitchener	3	4	2	1
	London	1	5	5	3
	Oshawa	2	2	1	1
	Ottawa–Gatineau (Ont. part)	1	3	0	0
	Peterborough	0	4	4	1
	St. Catharines–Niagara	2	6	7	4
	Thunder Bay	2	2	5	5
	Toronto	13	18	10	5
	Windsor	3	3	2	2
Quebec	Saguenay	0	1	10	3
	Ottawa–Gatineau (Que. part)	9	7	1	3
	Montréal	58	62	43	15
	Québec	25	19	19	5
	Sherbrooke	5	5	10	5
	Trois-Rivières	5	3	4	1
New Brunswick	Saint John	4	8	2	2
	Moncton	9	12	0	1
Nova Scotia	Halifax	1	1	0	0
Newfoundland and Labrador	St. John's	9	13	1	0
Total		220	292	177	81

[1] In 2006, of the 404 municipalities identified, 7 did not have zoning bylaws; therefore, only 397 municipalities are included in this table.

Zoning provision analysis

In 2014, a total of 214 bylaws or regulations were identified in the 209 CA municipalities permitting accessory apartments and 331 bylaws or regulations in the 292 CMA municipalities.

In order to gain a better understanding of how accessory apartments are regulated, 11 previously described zoning provisions from the 2006 study were examined along with 3 new provisions identified in 2014 relating to owner occupancy, parking requirements and safety codes. Terminology related to zoning provisions is described below:

Discretionary or conditional use

Accessory apartments are subject to a specific approval process identified as discretionary or conditional. This implies that the accessory apartment use may be refused.

In primary dwelling

Accessory apartments are allowed within a primary dwelling.

Accessory building

Accessory apartments are allowed in an accessory building, such as a coach home, an apartment above a detached garage, or a mobile home.

For a specific occupant

The bylaw or regulation includes limits on occupancy of the accessory apartment. Restrictions may limit occupancy to a parent, a parent of a certain age, a person with special needs, or other non-related person; or may include limits on the number of occupants.

Municipal approval or agreement

Accessory apartments must go through a process distinct from a normal permitting process. It entails signing an agreement, signing a declaration as to the parental link, or obtaining a special occupancy permit. It also includes situations where accessory apartments are not permitted but may be considered on a case-by-case basis.

Architectural integration

This refers to conditions that require the building where the accessory apartment is to be located to respect the surrounding built environment or the single-detached residential character of the property.

Time limitation

The zoning provisions identify the accessory apartment for a temporary use, set a time limit for this use, or may require that the building be put back to its original condition when the accessory apartment has been vacant for a given period of time.

Size limitation

The zoning provisions limit the size of the accessory apartment in relation to the primary building, limit the number of rooms, or determine a minimum lot size for an accessory apartment to be permitted.

Based on a type of zone or a specific zone

Accessory apartments are permitted in specific zones but may be prohibited in others.

Based on a type of building

Accessory apartments are permitted only in specific types of buildings, for example, single-detached residential.

Based on both zone and building

Accessory apartments are permitted only in a specific type of building in specific zones.

Owner occupancy

The registered owner of the primary dwelling must occupy either the primary or accessory apartment.

Parking requirements

An additional off-street parking space is required for the accessory apartment.

Safety codes

The accessory apartment is subject to any national or provincial building, fire or plumbing code.

Table 4 shows the prevalence of each zoning provision in the 2006 and the 2014 studies, where applicable. The most frequently used zoning provisions in 2014 pertain to size requirements (45% in CMAs and 53% in CAs), the obligation to have the accessory apartment located in the primary dwelling (33% in CMAs and 46% in CAs) and, in CMAs (at 36%), discretionary or conditional use. In 2006, the three most prevalent zoning provisions concerned location in the primary dwelling (80%), requirements for both the zone and building (64%) and size limitation of the dwelling (52 %).

Table 4 Zoning provision analysis for 2006 and 2014 CMAs and 2014 CAs

Summary of zoning provisions	CMAs - 2006	CMAs - 2014	CAs - 2014
Discretionary or conditional use	16%	36%	7%
In primary dwelling	80%	33%	46%
Accessory building	20%	17%	33%
For a specific occupant	33%	19%	24%
Municipal approval or agreement	13%	19%	26%
Architectural integration	35%	5%	17%
Time limitation	18%	20%	25%
Size limitation	52%	45%	53%
Based on a type of zone or a specific zone	17%	26%	16%
Based on a type of building	18%	22%	25%
Based on both zone and building	64%	22%	14%
Owner occupancy	N/A	28%	7%
Parking requirements	N/A	8%	27%
Safety codes	N/A	9%	14%

Accessory apartment legislation, non-compliant uses and development charges

Legislation pertaining to accessory apartments

In Canada, the design and construction of new accessory suites and the upgrade of existing ones is governed by provincial and territorial codes. The provinces and territories often either adopt or adapt the National Model Construction Codes, which include the National Building Code (NBC) of Canada and the National Fire Code of Canada. The NBC includes specific floor area maximums, ceiling height minimums, window dimensions and smoke alarm installation as they pertain to accessory apartments. British Columbia, Alberta, Ontario and Quebec have their own provincial building codes that regulate the development of accessory suite codes, based on the National Model Construction Codes.

Although most provinces in Canada encourage the development of accessory apartments as a means to provide options for affordable housing, only Ontario has enacted specific provincial legislation requiring municipalities to develop policies in their official plans and zoning provisions to provide for accessory apartment units. Changes made to the Ontario *Planning Act* in 2011 make it obligatory for municipalities to allow for accessory dwelling units within single-detached, semi-detached and townhouse dwellings, as well as in ancillary structures such as a detached garage. These changes are intended to improve access to adequate, suitable and affordable housing. Municipalities are required to meet the new *Planning Act* requirements and bring their planning documents into conformity as part of their five-year review or, at the discretion of the municipality, sooner.

Quebec's and British Columbia's provincial legislation includes provisions granting municipalities the authority to regulate intergenerational dwellings and accessory suites although they are not mandated. In Quebec, under section 113 of the *Act respecting land use planning and development*, municipalities have the authority to limit the occupancy of an additional dwelling to a relative, a dependant, or persons who are or were related to the owner or occupant of the principal dwelling.

Although the rest of the Canadian provinces and territories have not enacted legislative provisions regarding accessory apartments, they support the development of accessory apartments through such initiatives as guides designed to help local governments develop and implement accessory suite programs and homeowner grant programs for accessory apartments.

Non-compliant accessory housing

Even with provincial and/or municipal support, or lack thereof, for accessory suites, non-compliant accessory apartments exist in most Canadian municipalities. In order to ensure residents have adequate and safe housing, some Canadian municipalities developed programs to assist homeowners with accessory apartment compliance.

Table 5 Provincial legislation, provincial grant programs, policies, guides and applicable codes

Jurisdiction	Provincial Legislation Governing Accessory Apartments	Provincial Grant Programs	Provincial Policies or Guides	Applicable Codes
B.C.	*Local Government Act*	NA	*Secondary Suites, A Guide for Local Governments*	2012 B.C. Building Code, B.C. Plumbing Code, B.C. Fire Code
Alta.	NA	NA	NA	Alberta Building Code, Fire Code and Plumbing Code
Sask.	NA	Secondary Suite Program	NA	Building Standards, National Building, Fire and Plumbing Code
Man.	NA	Secondary Suites program	*Municipal Planning Guidelines for Secondary Suites*	Manitoba Building Code, Fire and Plumbing Code (same as the National Model Codes)
Ont.	*Planning Act*	NA	*Building Foundations: Building Futures, Ontario's Long-Term Affordable Housing Strategy*	Ontario Building Code, Fire and Plumbing Codes
Que.	*An Act respecting land use planning and development (Loi sur l'aménagement et l'urbanisme)*	NA	Housing strategy (in development)	Quebec Construction Code, Quebec Safety Code, National Fire Code
N.B.	NA	NA	*Hope is a Home: New Brunswick's Housing Strategy*	National Building, Fire and Plumbing Code
N.S.	NA	Parent Apartment Program	NA	National Building, Fire and Plumbing Code
P.E.I.	NA	NA	NA	P.E.I. Building Code, Fire Code, National Building Code (barrier-free standard) and National Plumbing Code
N.L.	NA	NA	NA	National Building, Fire and Plumbing Code
Y.T.	NA	NA	NA	Building Safety, Fire and Plumbing Code
N.W.T.	NA	NA	NA	National Building, Fire and Plumbing Code
Nun.	NA	NA	NA	National Building, Fire and Plumbing Code

The City of Saskatoon, Sask., offers to waive municipal building and plumbing permit fees for property owners to encourage the legalizing of existing accessory apartments. The City of Burnaby, B.C., provides property owners who would like to legalize their accessory apartment with the option of a complimentary suite feasibility inspection and report. This free service is a coordinated inspection carried out by the building, electrical, plumbing and gas inspectors. Finally, several municipalities provide online resources and guides to homeowners interested in legalizing their non-conforming suites.

CONCLUSION

Since the 2006 study, there has been an increase in the number of municipalities that now regulate and permit accessory apartments. This is attributed to the legislative changes in Ontario, which occurred in 2011, and the overall environment whereby provinces and municipalities are generally more supportive of recognizing accessory apartments as a legal form of housing in Canadian municipalities. In 2006, 54% of all surveyed municipalities permitted accessory apartments whereas, in 2014, 77% of all surveyed municipalities permit accessory apartments.

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